HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1365 (S/S) year 2003

Prakash Chandra Uniyal

Versus

State of Uttaranchal through
Secretary, Panchayati Raj, D.Dun

Approved for reporting.

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~~Not approved for reporting~~

Date of decision. 13.11.2003.

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1365(S/S) 2003

Prakash Chandra Uniyal,
S/o Late Sh. Jogeshwar Prasad
Uniyal, R/o Gram Amkot, P.O
Kyark, District-Pauri Garhwal .....Petitioner

Vs.

(1) State of Uttaranchal through
Secretary, Panchayati Raj, D.Dun
District –Dehradun
(2) Director, Panchayati Raj
Uttaranchal, District- Dehradun
(3) District Panchayat Raj Officer,
Pauri, District Pauri Garhwal. .....Respondents

Counsel for the petitioner Shr. Rakesh Thapliyal
Counsel for the respondent Shr. B.D. Kandpal
And Shri . J.P. Joshi

Dated:- 13-11-2003

Hon'ble Rajesh Tandon, J.

Heard Shri Rakesh Thapliyal counsel for the petitioner and Shri B.D. Kandpal and Shri J.P. Joshi counsel for the respondents.

By the present writ petition the petitioner has prayed for the quashing the order dated 22-10-2003 (Annexure No. 9) passed by the Zila Panchayat Raj Adhikari, Pauri Garhwal.

The petitioner has also prayed for the issue of a writ, order or direction in the nature of mandamus directing the respondents to grant

the first promotional pay scale w.e.f. 25-5-2003 on the basis of pay scale of Rs. 4500-7000 after completion of 14 years of service of the petitioner after taking into account the petitioner initial appointment was as Gram Panchayat Adhikari.

Brief facts giving rise to the present writ petition are that the petitioner was appointed on 22-02-1989 as a Gram Panchayat Adhikari in the scale of Rs. 330-495/-. The petitioner has joined the duties and performed to the satisfaction of his superiors.

The Petitioner has stated that although the appointment of the petitioner was only till 31-03-1989 but he was permitted to continue by the order dated 25-5-1989. He was given an appointment as a junior clerk in the scale of Rs. 354 to 550/- which is higher to the scale of Gram Panchayat Adhikari.

The petitioner has referred the govt. order regarding the selection grade which is being granted to the employees after completing 8 years of services and thereafter after 14 years there is a provision with regard to the grant of first promotional pay scale.

Petitioner has relieved upon the G.O. of the following effect:-

"Category No. 1-First increment was to be given on completion of 8 years of services and the promotional pay scale was to be given on 14 years of completing the service.

Category No. 2-Again increment was provided after completing 19 years of service. In order to get IInd promotional pay scale 24 years of service is required. The government order dated 9-4-2002 is quoted below:-

प्रबनध समिति की बैठक दिनांक 12.11.2001 के प्रस्ताव सं0 9 के अन्तर्गत लिये गये निर्णय के क्रम में कार्यालय आदेशांक पी0सी0एफ0/स्था0/अ–1/1769 दिनांक 29.11.2001 के द्धारा पी0एस0एफ0 के अधिकारियों/कर्मचारियों को शासनादेश के अनुसार 8 वर्ष सन्तोषजनक

सेवा पर एक वेतन वृद्धि, 14 वर्ष की सेवा पर प्रोन्नत वेतनमान, 19वर्ष की सेवा पर पुनः एक वेतन वृद्धि तथा 24वर्ष की सेवा पर द्वितीय प्रोन्नत वेतनमान की व्यवस्था है।

The counsel for the petitioner has stated that he is entitled for the first promotional scale after completing 14 years of service. Paragraphs 15 and 17 of the writ petition . The same are quoted below:-

Paragraph-15*"That the Zila Panchayat Raj Ashikari in its own office letter dated 31-7-2003 and 8-9-2003 justified the claim of petitioner and referred the matter to the Director however in turn against referred the matter to the said authority mentioning there in that the matter will be decided by the appointing authority and subsequently the said authority by means of the impugned order dated 22-10-2003 granted the said benefit on the basis of the scale of 4000-6000 though in view of the assertion as referred above, the petitioner is entitled to get the said benefit i.e the first promotional pay scale w.e.f. 25-5-2003 on the basis of scale of 4500 to 7000."*

Paragraph 17-" ***That in view of the reasons stated above it is expedient in the interest of justice this Hon'ble court may graciously be pleased to stay the effect and operation of the impugned order dated 22-10-2003 passed by Zila Panchayat Raj Adhikari, Pauri Garhwal and an Interim Mandamus may also be issued directing to the respondents to grant the benefit of first promotional pay scale on the basis of pay scale of Rs. 4500-7000 w.e.f 25-5-2003 , the date when the petitioner has completed 14 years of service and or to pass any other order which this Hon'ble***

court may deem fit and proper on the basis of the facts and circumstances of the case."

According to the petitioner he has completed 14 years of service and therefore he is entitled for promotional pay scale after reaching on 14 years of service. He has also claimed for the grant of the pay scale of Rs. 4500-7000 as affect from 25-5-2003.

Standing Counsel Shri J.P. Joshi and Shri Moulakhi have submitted that the claim of the petitioner with regard to the pay scale may be directed to be decided by taking into account in accordance with the govt. order.

The writ of mandamus in terms of the petitioner no. 2 and directed the respondent no. 1 to claim to the petitioner.

With the aforesaid observations the writ petition is allowed in terms of the prayer no.1. There will be no order as to costs.

Dated: - 13-11-2003 **(Rajesh Tandon, J.)**

Mohit